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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri H.L. Dattu, C.J.

Writ Petition No.2834 of 1988

Petitioners

1. Ramsagar Gupta, aged about 30 years, son of Shri Rampyare Gupta, resident of Sadar Road, Ambikapur, Post & Tahsil Ambikapur, District Sarguja (M.P.)
2. Basant Gupta, aged about 25 years, son of Shri Rampyare Gupta, resident of Sadar Road, Ambikapur, P.S. & Tahsil Ambikapur, District Sarguja (M.P.)

Vs.

Respondents

1. District Judge, Sarguja, at Ambikapur.
2. Civil Judge, Class I, Ambikapur
3. Smt. Lori Bai, aged about 45 years, window of Late Shri Rampyare Gupta;
4. Mahavir Gupta, aged 20 years, son of late Shri Rampyare Gupta;
5. Kumari Sandhya, aged 18 years;
6. Kumari Bindu, aged 16 years;

daughters of late Shri Rampyare Gupta, minor through her mother, Smt. Lori Bai;

All residents of Darripara, Ambikapur, P.S. & Tahsil Ambikapur, District Sarguja, MP.

Present : Smt. Hamida Siddique, counsel for the petitioners.
Shri Sharwan Chandel, counsel for respondent No.3.

ORAL ORDER
(Passed on 4th April, 2007)

The petitioners claim that they are sons of Late Shri Rampyare Gupta. After the death of his first wife, it appears that he was living with one Smt. Lori Bai. Smt. Lori Bai is arrayed as respondent No.3 in this writ petition. Respondents No.4 to 6 are said to be the son and daughters of Smt. Lori Bai.

(2) In this petition filed under Articles 226/227 of the Constitution of India, the petitioners call in question the order passed by the learned District Judge, Ambikapur in Civil Appeal No.3/1987 dated 29-7-1988. By the impugned order, the learned District Judge has confirmed the order passed by the learned Civil Judge in Succession Case No.1/1985 under Section 372 of the Indian Succession Act (henceforth 'the Act') dated 10-4-1987.

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(3) Smt. Hamida Siddique, learned counsel appearing for the petitioners, at the time of hearing of this writ petition, would submit that the Courts below could not have granted a succession certificate without grant of a probate order or letter of administration in view of Section 370 of the Act and, therefore, the learned counsel would submit that the learned trial Judges were in error in passing the impugned orders.

(4) Admittedly, the father of the petitioners in this writ petition was a Hindu and it appears that he had executed a Will in favour of Smt. Lori Bai. Based on the Will, she had approached the Civil Court for grant of a succession certificate under Section 372 of the Act. Since the father of the petitioners was a Hindu, grant of a probate or letter of administration is not a must for grant of a certificate under the provisions of the Act.

(5) In view of the above, the legal contentions canvassed by learned counsel for the petitioners cannot be accepted by me. Accordingly, confirming the orders passed by the Courts below, this writ petition requires to be rejected and it is rejected. Ordered accordingly.

Sd/-
Chief Justice